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OhioEPA
State of Ohio Environmental Protection Agency
Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

November 26, 2008

CERTIFIED MAIL

Mr. John Peshek
Agent for B-Vest Properties
154 Olive Street
Elyria, Ohio 44035

RE: Former General Industries facility remediation meeting

Dear Mr. Peshek:

This correspondence serves to memorialize the discussion held on November 11, 2008, at our office regarding the status of the former General Industries facility ("the facility"). Representatives from four of our divisions were in attendance to discuss the basic requirements of their respective programs, along with answering any regulatory or technical questions posed by either you or Mr. Jack Vasi, in his capacity as your consultant. Also in attendance was Joseph Fredle, an on-scene coordinator with U.S. EPA's Superfund program. The meeting was lead by our district's Assistant Chief, Keith Riley.

Listed below is general information for each of the programs represented in our meeting. Also attached for your consideration are general information handouts, fact sheets and web addresses for additional technical and regulatory information. We hope this information will assist you in preparing a document which outlines a site-wide remediation plan for your facility, in compliance with the applicable state and federal environmental regulations.

Division of Air Pollution Control (DAPC)

As you are aware, the primary concern of Ohio EPA at the facility since the July 3 fire has been related to asbestos. Jim Veres and Bob Princic (DAPC) have inspected the site on several occasions and have taken a number of samples, with the result that Ohio EPA has classified the debris at the facility as an asbestos-containing waste material (ACWM).

Any investigatory, salvage or remedial activities must be conducted in accordance with the requirements of Ohio Administrative Code (OAC) 3745-20 and the federal NESHAP (National Emission Standard for Hazardous Air Pollutants) for asbestos, as delineated in 40 CFR (Code of Federal Regulations) Part 61, Subpart M.

These state and federal regulations, as we explained, detail the requirements for pre-removal notification, removal practices, along with the handling, transportation, disposal and documentation of ACWM. Mr. Vasi, as a certified asbestos contractor, stated that he was aware of these requirements. More information regarding these regulations can be found at: http://www.epa.state.oh.us/dapc/atu/asbestos/asbestos.html. He is also aware that he can contact Mr. Princic with any asbestos-related project questions.

Mr. Vasi described a treatment system that you and he are hopeful would result in a large amount of the ACWM being decontaminated to the point that it would be classified as construction and demolition debris (C&DD) pursuant to our state solid waste regulations. Among other conditions, there would be a significant amount of verification sampling necessary before this re-classification of material could occur, regardless of the cleaning option you choose. Also, if you plan to crush and dispose of the material as on-site fill, depending on the size of the portable crusher you plan to use, you will need to ensure that the owner of the crusher has an active DAPC permit-to-install and operate (PTIO). More information on DAPC permitting requirements can be found at: http://www.epa.state.oh.us/dapc/permits/permits.html.

Division of Surface Water (DSW)

Mr. Vasi and you described a proposal to decontaminate the salvageable metals and building bricks through an on-site treatment system requiring the use, treatment and discharge of potentially large quantities of water, which lead to discussions of surface water approvals and permitting requirements, along with those dealing with hazardous waste.

As we understood from your brief description of the proposed treatment system, you are exploring the option of using the facility's water tower as a treatment vessel. The tower, which was originally on the facility roof, is currently located on its side in the debris field, due to the roof collapse during the fire. Mr. Vasi explained that he is considering the construction of a shaker-type system to be installed internally to the water tower/treatment vessel, which would operate to vibrate asbestos fibers, loose paint and other contaminants off of the bricks. This would occur in water, which would serve to wash the bricks clean. These bricks would then be rinsed and sampled in some manner to determine if they can be regulated as C&DD waste, crushed for on-site fill or would still be classified as ACWM.

The tank(s) used for washing the metal and bricks would be process tanks, and the wastewater generated would be process wastewater. As Donna Kniss (DSW) explained, the installation of any equipment to treat the process wastewater would require DSW permit-to-install (PTI) approval. Treated wastewater could possibly be discharged to either the sanitary sewer or the storm sewer. A discharge to the sanitary sewer would require the prior approval of the City of Elyria. As Ms. Kniss explained, the city is under no obligation to accept wastewater from the facility, and recently has stated that it currently would not do so. A discharge to the storm sewer would require an NPDES permit. Because this would be a new process water discharge, the NPDES permit application would be subject to the requirements of the Antidegradation Rule, found in OAC 3745-1-05. This process includes evaluation of disposal alternatives and two public notice periods. Another option would be to containerize the process water, either before or after treatment, and transport it to a facility that is permitted to accept it. Information on the DSW PTI permitting process can be found attached to this letter (attachment 1).

Dan Bogoevski of DSW's storm water program briefly delineated the NPDES permitting requirements that may also apply to runoff from your project. NPDES permits for storm water runoff will be required if you (a) conduct scrap and waste material recycling or reclaiming activities **or** (b) disturb one or more acre of land in the process of restoring or redeveloping the site. General NPDES permits are available for storm water runoff from either activity. Recycling and reclaiming activities require coverage under the Ohio EPA General Storm Water NPDES Permit for Industrial Activities #OHR000004 while earth disturbance associated with site redevelopment requires coverage under the Ohio EPA General Storm Water NPDES Permit for Construction Activities #OHC000003. In addition to the enclosed fact sheets (attachment 2), you can obtain more information from the DSW web site on the storm water program, found at: http://www.epa.state.oh.us/dsw/storm/index.html.

Division of Hazardous Waste Management (DHWM)

Any of the materials at the General Industries site, including the fire debris, would meet the definition of a "waste" if discarded. A discarded material is any material that is abandoned or recycled. Material is abandoned if it is disposed of, burned or incinerated or accumulated, stored or treated before or in lieu of being abandoned by being disposed of, burned or incinerated. Prior to being discarded, the debris (waste) would need to be characterized per OAC rule 3745-52-11. For the fire debris, the waste would be evaluated for the constituents found on Table 1 of OAC rule 3745-51-24, Toxicity Characteristics. (This Table is enclosed as attachment 3.) The waste will be considered a hazardous waste if, using the toxicity characterization leaching procedure (TCLP), test method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," U.S. EPA Publication SW-846, the extract from the representative sample of the waste contains any of the concentrations equal to or greater than the respective values given in the attached Table.

Our on-site inspections have noted areas where potential hazardous waste may exist. We have pointed out to you areas in the remaining structure, and an area in the debris field, where significant amounts of structural paint have become detached from the walls. This paint, some of which has been charred and cracked, and also melted off in a large sheet, could potentially be hazardous for lead and other metals which are also listed on the attached Table 1. To facilitate any waste characterization, it is advised to segregate this and any other potentially hazardous waste materials from the rest of the fire debris. The waste materials should then be sampled and containerized prior to disposal.

Please note the drums of material on-site will also need to be characterized prior to disposal. If information is available from the previous owner regarding the material in the drums, it may be used to characterize the material. However, this data must give specific information on each drum and you must be able to correlate the information to the drums as they exist today. Otherwise, samples would need to be collected from each drum to determine the contents and whether the material would need to be managed as a hazardous waste upon disposal.

If the fire debris is going to be treated in a unit regulated by the Division of Surface Water, the waste would not need to be characterized prior to placement in the treatment unit; only the resulting sludge would need to be characterized prior to disposal. If the treatment unit is not permitted by DSW, then the waste would need to be characterized prior to placement in the unit. If the waste is determined to be hazardous, the tank would be defined as a generator treatment tank that would be regulated by the division of hazardous waste management. The old water tank from the building would not meet the tank requirements as found in OAC rule 3745-66-90 through 101. If a tank is installed which did meet these requirements, please be aware that at the end of the project the tank and all ancillary equipment and secondary containment would need to be closed (decontaminated) to meet the closure performance standard found in OAC rule 3745-66-11.

Division of Emergency and Remedial Response (DERR)

Nancy Zikmanis, a project coordinator in DERR's Voluntary Action Program (VAP), was present to discuss one of your major concerns, namely the availability of federal, State or local funding for your project. Both you and Mr. Vasi alluded to the fact that without some significant funding source, the proposal would not be feasible, and the facility in its present condition would default to the city for remedial action.

State funding sources such as the Ohio Department of Development's "Clean Ohio Fund" and the Ohio "Brownfields" programs were discussed. According to Ms. Zikmanis, both involve the expenditure of public funds in public entity – private enterprise partnerships. Funding and projects for the upcoming year are currently being determined. Funds for the federal "Brownfields" program, administered by U.S. EPA, have already been committed for this upcoming year. Both Mr. Vasi and you stated that discussions were ongoing with Elyria officials, along with state and federal legislators in an effort to secure project funding. We have included information on the Ohio "Brownfields" program (attachment 4), and a list of websites and contacts regarding Brownfield Redevelopment (attachment 5).

Also, any of a number of "chemicals of concern" may have contaminated the soil on the property during the existence of this industrial complex. We suggest you contact a "VAP Certified Professional" (listed in attachment 6) to determine if soil removal or remediation in accordance with the VAP soil clean-up standards are feasible options as a component of your project.

U.S. EPA Superfund Removal Program

As you are aware, on September 25, 2008, Ohio EPA requested U.S. EPA's assistance in order to assess the need for a potential time-critical removal action at the former General Industries site. Mr. Fredle explained that his presence at the meeting was a part of the information assessment that is still ongoing. They have not yet completed their evaluation of Ohio's request for federal involvement.

Mr. Fredle explained that U.S. EPA preferred that clean-up funding and technical issues be resolved at the local or state level, and the Superfund program typically would become involved in projects such as these in the absence of a viable responsible party. He said that the federal program would be activated to conduct the work, and then recover costs through a lien on the property. He indicated that he would follow the project through coordination with Ohio EPA.

Conclusion

In concluding the meeting, it was suggested that the undersigned serve as the Agency's point of contact for this project. As you work through technical and administrative issues, I can facilitate with the other divisions to secure answers and obtain information for you as your questions arise. I can be contacted at (330) 963-1230, or via e-mail at Bob.princic@epa.state.oh.us.

All parties agreed that frequent communication would be useful to move the project along. You agreed to supply monthly progress reports to Ohio EPA, through which we can provide you with assistance on the technical merit of your proposed treatment design and clean-up process, and evaluate the progress of the asbestos and waste disposal. Please send those reports to my attention. We look forward to the successful completion of this project, and will offer whatever assistance we can to you as your seek to re-open your business at the former General Industries facility.

Sincerely,

Jim Veres for

Robert T. Princic, Jr.
Environmental Supervisor
Division of Air Pollution Control

RTP:bo

attachment(s)

pc: Keith Riley, ADC/NEDO
Jim Veres, DAPC/NEDO
Karen Nesbit, DHWM/NEDO
Donna Kniss, DSW/NEDO
Dan Bogoevski, DSW/NEDO
Mike Stevens, DSW/NEDO
Nancy Zikmanis, DERR/NEDO
Rich Blasick, DSW/NEDO
Charlotte Hickox, Director's Office
Joseph Fredle, U.S. EPA-Westlake
State Rep. Matt Lundy
Terry Shilling, City of Elyria
Kathleen Boylan, City of Elyria
Robert Dempsey, Fire Marshal, City of Elyria
Jack Vasi